IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.123 OF 2006

The Commissioner of Central Excise,
Belapur .. Appellant

V/s

M/s.Paithan Silk Mills .. Respondent

Mr.A.M.Sethna i/by Mr.H.P.Chaturvedi for the Appellant.
Mr.M.H.Patil with Mr.D.H.Nadkarni for the Respondent.

CORAM : DR.S.RADHAKRISHNAN, &
V.C.DAGA, JJ.

DATE : 26th April, 2007.

P.C.:

1. Heard the learned Counsel for the parties. The learned Counsel for the Appellant sought to raise the following substantial question of law:-

> "Whether in terms of Para 7 of Notification No.31/2000-CE(NT) dated 31.03.2000 the Joint Commissioner of Central Excise is competent authority to pass an order of abatement under rule 96ZQ of the Central Excise Rules 1944?

2. Perused the Tribunal's judgment with regard to the aforesaid question of law. The Tribunal has held in favour of the Respondent herein and against the Revenue. The learned Counsel for the Appellant also fairly conceded that as far as question of law which is raised in this Appeal is concerned, the said question of law has already been answered by the CESTAT in favour of the Respondent herein and against the Revenue. The CESTAT in its judgment has answered the said question in favour of the Respondent and against the Revenue, in the following words:-

"..... Finding no infirmity in the Commissioner of Central Excise (Appeals) order, the Revenue's appeal is rejected,since for the abatement claim, in the present appeal filed by Revenue on the ground that as per the Central Excise 5th Amendment 2000, Joint Commissioner was not competent for passing an order of abatement cannot be upheld."

3. The above is merely a finding of fact and there is no substantial question of law involved. Hence, the Appeal is devoid of merits and the same stands dismissed.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**